

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

IN RE:)	
)	
CYNTHIA F. TONEY,)	
a/k/a CYNTHIA F. PASSMORE,)	
)	
Plaintiff,)	CASE NUMBER: 2:06-CV-949
)	
vs.)	
)	
MEDICAL DATA SYSTEMS, INC.,)	
d/b/a MEDICAL REVENUE SERVICES, INC.,)	
)	
Defendant.)	

**MOTION TO SUPPLEMENT PLAINTIFF'S BRIEF IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT**

Comes now the Plaintiff, by and through the undersigned attorney, and moves this Honorable Court to allow her to submit the attached pages to supplement Plaintiff's Exhibits 2 through 9. These are additional pages from deposition and trial testimony previously filed with Plaintiff's Brief In Support of Motion for Summary Judgment (docket entry 46). The Plaintiff submits this supplement deposition and trial exhibits based on the following:

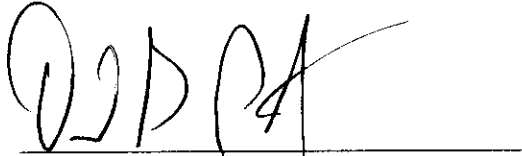
1. On January 18, 2007, the Plaintiff filed her Motion for Summary Judgment. Docket entry 45. The Plaintiff also filed a Brief In Support of her Motion for Summary Judgment (docket entry 46).
2. Included with her Brief In Support of Motion for Summary Judgment, the Plaintiff attached Exhibits 1 through 13. Of the previously filed Exhibits, Exhibits 2 through 9 contained deposition or trial testimony. The Plaintiff inadvertently omitted the cover pages for the depositions and the style of the case for the trial transcript.
3. Plaintiff would supplement Exhibits 2 through 9 to include the cover pages of the depositions and the style of the trial transcript.
4. Additionally, the Plaintiff did not offer a predicate for the deposition and trial testimony of Gary R. Ball. Mr. Ball testified that he is a shareholder, Vice President and Chief Operating Officer of the Defendant. Mr. Ball also testified that he was qualified to answer questions on behalf of the corporation. Trial Tr. 11:3-24 & Ball Dep. 5:10-20; 6:1-20; 95:8-16.

5. As a predicate for Mr. Ball's testimony, the Plaintiff further supplements Exhibit 2 with additional Trial Transcript page 11; and, exhibit 3 with additional deposition pages 5, 6, and 95.

Wherefore, Plaintiff moves this Honorable Court to permit her to supplement Exhibits 2 through 9 with the attachments to this Brief In Support of Motion for Summary Judgment and for all other relief that is just.

Respectfully submitted this 24th day of January, 2008.

BROCK & STOUT



David G. Poston, Esq.

Walter A. Blakeney, Esq.

Michael D. Brock, Esq.

Gary W. Stout, Esq.

Post Office Drawer 311167

Enterprise, Alabama 36330

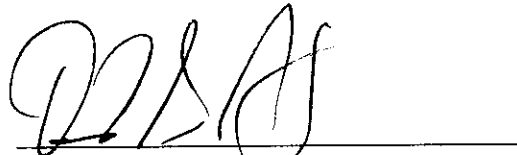
Tel: (334) 671-5555

Fax: (334) 671-2689

Email: christal@circlecitylaw.com

CERTIFICATE OF SERVICE

I, the undersigned hereby certify that I have this date served a copy of the foregoing upon James C. Huckaby, Jr., Esq., J. Kirkman Garrett, Esq., John G. Parker, Esq., and Stefanie Jackman, Esq., via electronic mail at jch@hsdpc.com, jkgarrett@csattorneys.com, johnparker@paulhastings.com, and stefaniejackman@paulhastings.com, this 24th day of January, 2008.



David G. Poston

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

In the matter of:)
)
CAMBRON, James R. and Wendy L.,) Case No. 05-11879
)
Debtors.)

JAMES R. CAMBRON)
vs.) AP No. 06-1057
MEDICAL DATA SYSTEMS, INC.)

WENDY L. CAMBRON)
vs.) AP No. 06-1058
MEDICAL DATA SYSTEMS, INC.)

Montgomery, AL
March 15, 2007, 9:47 a.m.

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE WILLIAM R. SAWYER
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES: David G. Poston
Michael D. Brock
BROCK & STOUT
P.O. Drawer 311167
Enterprise, AL 36330

Russell A. McGill
Brunson & Associates
P.O. Box 1189
301 Broad St.
Gadsden, AL 35902

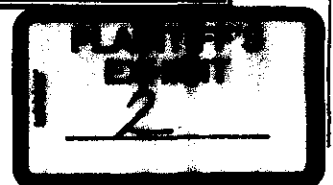
Electronic Recorder
Operator:

Linda A. Bodden

Transcriber:

Patricia Basham
6411 Quail Ridge Drive
Bartlett, TN 38135
901-372-0613

Proceedings recorded by electronic sound recording;
Transcript produced by transcription service.



Ball - Direct

11

1 A. You are referring to the collection division of
2 Medical Data Systems, that is correct.

3 Q. What is your position in the company?

4 A. I am a shareholder in the company and I am the chief
5 operating officer and chief financial officer.

6 Q. And you are the one that the company put up as the
7 30(b)(6) representative for deposition purposes; is that
8 correct?

9 A. I don't know what 30(b)(6) means.

10 Q. Did you give your deposition in this case?

11 A. Absolutely, yes.

12 Q. On behalf of the corporation?

13 A. That is correct.

14 Q. Okay. And how long have you been employed or been a
15 shareholder Of Medical Data Systems?

16 A. Approximately ten years.

17 Q. Okay. And what is your function there, with that
18 company?

19 A. Well, there are three major shareholders that occupy
20 major positions of the company. My partner is the president
21 and he looks after the software development and the IT
22 department primarily and the new customer integration. My
23 other partner previously handled new business development, but
24 he is terminally ill and about to die any day now; and I handle
25 the operations aspect, along with the president, and the

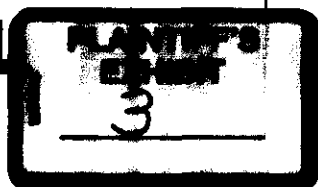
IN THE UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

IN RE:)
JAMES R. CAMBRON &) BANKRUPTCY CASE NO.:
WENDY L. CAMBRON,) 05-11879
DEBTORS.) CHAPTER 7 CASE

WENDY L. CAMBRON,)
PLAINTIFF,)
vs.) A.P. NO.: 06-1058
MEDICAL DATA SYSTEMS, INC.,)
D/B/A MEDICAL REVENUE)
SERVICES, INC.,)
DEFENDANT.)

The deposition of Gary Raymond Ball taken pursuant to the Alabama Rules of Civil Procedure before Tina L. Harrison, Court Reporter and Notary Public, State at Large, at the law offices of Brock & Stout, LLC, 807 East Lee Street, Enterprise, Alabama, on the 19th day of January, 2007, commencing at approximately 10:13 a.m.

ORIGINAL



1 GARY RAYMOND BALL,
2 being first duly sworn to tell the truth testified
3 as follows:
4

5 EXAMINATION

6 BY MR. BROCK:

7 Q. Sir, I'm Mike Brock, and this is David
8 Poston to my right. And we represent the
9 plaintiffs in the matter that we're here for
10 today. Could you state your name for the record,
11 please?

12 A. Gary Raymond Ball, B-a-l-l.

13 Q. And your address?

14 A. 1380 Olde Doubloon -- that's O-l-d-e
15 D-o-u-b-l-o-o-n -- Drive, Vero Beach, Florida
16 32963.

17 Q. And, sir, how are you employed?

18 A. I'm the vice president, chief operating
19 officer, and chief financial officer of Medical
20 Data Systems.

21 Q. Okay. And do they do business in the
22 state of Alabama?

23 A. Yes, we do.

1 Q. And are you familiar with the practice
2 and policies of Medical Data?

3 A. Yes. Reasonably so.

4 Q. And how long have you been employed by
5 Medical Data?

6 A. Approximately ten years.

7 Q. And have you ever given a deposition on
8 behalf of Medical Data in the past?

9 A. Yes.

10 Q. So do you feel comfortable with
11 responding to questions about the matters that
12 we're here for today?

13 A. Well, let's be honest. Of course not.
14 I would much rather not be here.

15 Q. Let me rephrase that. Do you feel like
16 you're qualified to answer questions on behalf of
17 Medical Data?

18 A. If you come up with a question that I
19 feel I'm not qualified to answer, I'll let you
20 know.

21 Q. Thank you very much.

22

23 (Whereupon, Plaintiff's Exhibit 1 was

1 MR. BROCK: It would be nice to
2 have somebody who could answer the
3 questions regarding to Sebring, about
4 their policies. If he's not sure of the
5 policies, I think this was a colossal
6 waste of time.
7

8 Q. Once again, are you able to testify on
9 behalf of the Sebring, Florida, office as to their
10 policies?

11 A. As good as any individual would be
12 capable at this point in time, I have the ability
13 to answer questions. The manager that was the
14 manager of that office at that time is no longer
15 the manager of that office. There's another
16 manager there now.

17 Q. I'm going to refer you back to
18 Plaintiff's Exhibit No. 7. Who is A. U. Clancy?

19 A. A. U. Clancy is a fictitious name that
20 we use on our letters. And it actually -- well,
21 it's not a fictitious name. It's the name that's
22 on all of our letters, and it is the maiden name of
23 my partner's wife.

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA

ORIGINAL

LETICIA ANDREWS,) CASE NO: 1:06-CV-729
)
Plaintiff,)
vs.)
)
MEDICAL DATA SYSTEMS,)
INC., d/b/a MEDICAL REVENUE)
SERVICES, INC.)
)
Defendant.)

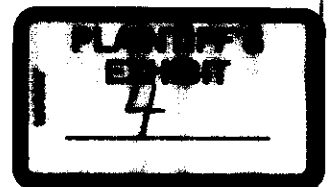
CYNTHIA F. TONEY, a/k/a)
CYNTHIA F. PASSMORE,) CASE NO: 2:06-CV-949
)
Plaintiff,)
vs.)
)
MEDICAL DATA SYSTEMS,)
INC., d/b/a MEDICAL REVENUE)
SERVICES, INC.)
)
Defendant.)

DEPOSITION OF

BARBARA THOMAS

Taken on Behalf of the Plaintiffs

DATE TAKEN: April 6, 2007
TIME: 11:08 AM - 12:15 PM
PLACE: Inn on the Lakes Hotel
3100 Golfview Road
Sebring, Florida 33875



ORIGINAL

Defendant .

Defendant.

RICHARD LARRY HEATH

DATE TAKEN: April 6, 2007
TIME: 4:25 PM - 4:45 PM
PLACE: Inn on the Lakes Hotel
3100 Golfview Road
Sebring, Florida 33875

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA

CERTIFIED COPY

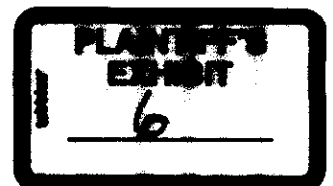
LETICIA ANDREWS,) CASE NO: 1:06-CV-729
)
Plaintiff,)
vs.)
)
MEDICAL DATA SYSTEMS,)
INC., d/b/a MEDICAL REVENUE)
SERVICES, INC.)
)
Defendant.)

CYNTHIA F. TONEY, a/k/a)
CYNTHIA F. PASSMORE,) CASE NO: 2:06-CV-949
)
Plaintiff,)
vs.)
)
MEDICAL DATA SYSTEMS,)
INC., d/b/a MEDICAL REVENUE)
SERVICES, INC.)
)
Defendant.)

DEPOSITION OF
MICHELLE PEACOCK

Taken on Behalf of the Plaintiffs

DATE TAKEN: April 6, 2007
TIME: 12:25 PM - 1:40 PM
PLACE: Inn on the Lakes Hotel
3100 Golfview Road
Sebring, Florida 33875



IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA

ORIGINAL

LETICIA ANDREWS,) CASE NO: 1:06-CV-729

Plaintiff,
vs.

MEDICAL DATA SYSTEMS,
INC., d/b/a MEDICAL REVENUE
SERVICES, INC.

Defendant.

CYNTHIA F. TONEY, a/k/a
CYNTHIA F. PASSMORE,

CASE NO: 2:06-CV-949

Plaintiff,
vs.

MEDICAL DATA SYSTEMS,
INC., d/b/a MEDICAL REVENUE
SERVICES, INC.

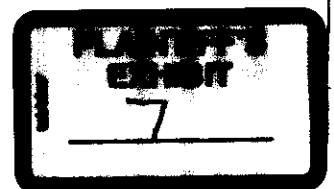
Defendant.

DEPOSITION OF

SHAWN SMITH

Taken on Behalf of the Plaintiffs

DATE TAKEN: April 6, 2007
TIME: 10:20 AM - 11:05 AM
PLACE: Inn on the Lakes Hotel
3100 Golfview Road
Sebring, Florida 33875



IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA

ORIGINAL

LETICIA ANDREWS,) CASE NO: 1:06-CV-729
)
Plaintiff,)
vs.)
)
MEDICAL DATA SYSTEMS,)
INC., d/b/a MEDICAL REVENUE)
SERVICES, INC.)
)
Defendant.)

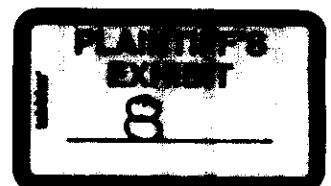
CYNTHIA F. TONEY, a/k/a)
CYNTHIA F. PASSMORE,) CASE NO: 2:06-CV-949
)
Plaintiff,)
vs.)
)
MEDICAL DATA SYSTEMS,)
INC., d/b/a MEDICAL REVENUE)
SERVICES, INC.)
)
Defendant.)

DEPOSITION OF

DENISE BOBELAK

Taken on Behalf of the Plaintiffs

DATE TAKEN: April 6, 2007
TIME: 9:09 AM - 10:06 AM
PLACE: Inn on the Lakes Hotel
3100 Golfview Road
Sebring, Florida 33875



IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA

CERTIFIED COPY

LETICIA ANDREWS,) CASE NO: 1:06-CV-729
)
Plaintiff,)
vs.)
)
MEDICAL DATA SYSTEMS,)
INC., d/b/a MEDICAL REVENUE)
SERVICES, INC.)
)
Defendant.)

CYNTHIA F. TONEY, a/k/a)
CYNTHIA F. PASSMORE,) CASE NO: 2:06-CV-949
)
Plaintiff,)
vs.)
)
MEDICAL DATA SYSTEMS,)
INC., d/b/a MEDICAL REVENUE)
SERVICES, INC.)
)
Defendant.)

DEPOSITION OF

TAMMY SHAFFER

Taken on Behalf of the Plaintiffs

DATE TAKEN: April 6, 2007
TIME: 3:10 PM - 3:41 PM
PLACE: Inn on the Lakes Hotel
3100 Golfview Road
Sebring, Florida 33875